

February 9, 2009

Members of the Appropriations Committee

The initial proposal presented by the Governor's office with regard to the CHRO cutbacks represents nothing less than a neutering and eventual dismantling of the legislative mandate for the oldest civil rights organization in the United States of America. The CHRO has been in the forefront of civil rights since 1947, some 16 years before the U.S. Civil Rights Act became a law of the land.

The Governor' proposal to half the agency by the elimination of two of four regional offices, the Waterbury and Norwich regions and slashing over 25% of personnel through the elimination of 28 full time positions lacks both foresight and understanding of the role, mission and process of this frontline organization responsible for the elimination of discrimination in the workplace and the establishment of equal opportunity and justice for all citizens of Connecticut.

Some fundamental facts are in order. The Commission's four regional offices intake some 3000 cases of discrimination allegations annually. A simple division tells you that represents about 750 cases per office. Our Bridgeport office has seven Investigators and the math is quite simple. It's easy to see what the elimination of two regional offices and 28 positions would mean for

the CHRO's ability to manage its caseload and fulfill its mission.

The Governor's proposal is recommending the layoff of about 400 employees statewide, yet 28 of these positions are to come from CHRO. I ask you to seriously consider this: Does it make sense that about 6% of the total layoffs proposed from a budget that totals over \$16 billion should come from an agency whose budget makes up far less than one half of one percent of the total State budget? The elimination of 28 jobs translates to over 25% of our agency.

In 2008, A CHRO Advisory Group, appointed by the Governor herself, made a number of recommendations to better manage the Agency. Notably, one of the recommendations made by the Advisory Group was to increase the resources available to CHRO, including the provision of more staff. A copy of the draft is attached to this testimony for your perusal.

The CHRO generates actual revenue for the State since the Commission is compensated by the federal government for the cases that are closed. That does not even consider the sums of settlement dollars that are mediated by Investigators in the earliest stages of case review through conciliation processes, as well as the awards determined at the public hearing phase. These areas of reasonable settlement and award results further the mission and purpose of the CHRO, to assure that a process for all CT citizens is available when discrimination may occur in the workplace or in venues of public accommodation.

My testimony is general in nature, with the intention that this committee and the General Assembly review the

specifics of the potential demise of America's oldest civil rights organization established by law.

The imbalances are glaring, the rationale mystifying, and the consequences staggering. Any such proposal on CHRO to tear down and make ineffective over 60 years of this Constitution State's efforts to pursue fairness and equal justice for all people, regardless of their age, race, gender, national origin, religious or sexual preference, physical disability or any other legislatively designated protected class, is not only budgetarily irresponsible, it is socially and eventually politically unconscionable and damaging.

To: CHRO Advisory Group

From: CHRO Operations and	Affirmative Action Subcommittees
Barbara Collins	Fernando Betancourt
Dave Metzger	Glenn Cassis
Alice Pritchard	Debi Freund
Stacy Smith Walsh	Sharon Gaddy
Dawne Westbrook	Teresa Younger

Date: September 11, 2008

Re: Final Recommendations

- The subcommittees on CHRO Operations and Affirmative Action volunteer to remain in effect as a viable resource during the implementation of these recommendations. The group volunteers to research and develop Best Practices and to draft proposed legislation and guidelines as necessary.

I. Executive and Legislative Commitment

- The Governor should publically reaffirm her and the state's commitment to diversity initiatives, equal employment, affirmative action and civil rights.
- State agency heads should be trained regarding the legal authority for Affirmative Action, their obligations thereto, and their responsibility to guarantee a nonbiased discrimination complaint process within their agencies. Current regulations should be strengthened to ensure consequences for agencies that maintain a pattern of noncompliance.
- The civil rights agency should be adequately resourced so that it can effectively fulfill its mandate to protect the equal rights of all Connecticut citizens. This would include staff to fulfill its responsibility to provide training to consumers on complaint handling, affirmative action plan development and implementation, and contract compliance; resources to reinstate the regular site visits to agencies and construction sites to ensure compliance with regulation; and modern technology necessary to provide better accessibility to its services throughout the state.
- The state has seen a consistent decline in the number of staff assigned equal rights, affirmative action and contract compliance duties in state agencies. This suggests a lack of commitment and understanding on the part of agencies to the regulations and statutory obligations of affirmative action and anti-discrimination. Legislation should be enacted that requires a direct correlation between the size of an agency's total workforce and the size of the affirmative action staff.

II. Structure of CHRO

- There shall be an Office of Civil Rights that shall be an independent state agency and shall constitute a successor agency to the Commission on Human Rights and Opportunities, in accordance with the provisions of sections 4-38d and 4-39.
- Within the Office of Civil Rights, there shall be the Civil Rights Advisory Council that shall consist of nine members, appointed as is currently done. The Council shall: appoint the executive director of the Office of Civil Rights; make legislative recommendations to the General Assembly and report annually, prior to April fifteenth, to the Governor summarizing the activities of the Office of Civil Rights; enter into such contractual agreements as may be necessary for the discharge of its duties, within the limits of its appropriate funds and in accordance with established procedures; to recommend policies and make recommendations to agencies and offices of the state and local subdivisions of government to effectuate the policies of sections 46a, inclusive; to hold public hearings; investigate the possibilities of affording equal opportunity of profitable employment to all persons with particular reference to job training and placement; compile facts concerning discrimination in employment, violations of civil liberties and other related matters; focus on the identification and elimination of issues that have a disproportionate impact on protected classes within the state of Connecticut; and investigate and proceed in all cases of discriminatory practices as provided in this chapter and noncompliance with the provisions of section 4a-60 or 4a-60a. The Council would provide guidance and advice to the Governor on systemic issues regarding discrimination, affirmative action, and diversity within the state. They would serve as an advisory body seeking to identify problem areas and potential solutions and help drive the public agenda of the state in terms of eradicating discrimination within the state.
- The Executive Director of the Office of Civil Rights shall be appointed for an open-ended term. The Executive Director shall be the sole figurehead and decision maker of the agency. The functions and duties of the Executive Director shall be related to running the operations of the agency, overseeing personnel, and managing the agency budget and resources. Vest in this position the authority and discretion to appoint two Bureau Directors, each with responsibility over a specific area: (1) Field Operations/Investigation of Charges of Discrimination; and (ii) Affirmative Action and Contract Compliance. The Executive Director shall also be able to hire a Managing Attorney/General Counsel for the agency. The intent is that individuals holding civil service jobs at the Office of Civil Rights and other agencies would be elevated to these Bureau Director roles with the right to return to their civil service jobs following the completion of their services to the Executive Director, without loss of seniority or other accrued rights.
- Direct the Department of Administrative Services to review staff positions in the field of Affirmative Action within the Office of Civil Rights and state

agencies for proper classification and compensation. For example, the position of CHRO Rep is utilized throughout the agency and should be analyzed for appropriateness of assigned duties and use.

- The civil rights agency should submit an annual report that reflects the progress of diversity and affirmative action initiatives throughout the state. This shall include an annual report card for all agencies to measure their diversity, affirmative action, set aside and contract compliance programs, and the integrity of their complaint handling. This report card will also serve to inventory and catalogue Best Practices in the field from which all agencies can learn. Legislative changes shall be enacted that include real consequences for agencies that refuse to cooperate.

III. The Complaint Process

- Amend the current statute to allow Complainants to request withdrawal of their charge and a release of jurisdiction letter when 150 days have passed since the filing of the charge. This is consistent with waiting periods that exist in other states and may help improve backlog at the agency.
- Increase the Office of Civil Rights use and implementation of mediation and conciliation procedures that already exist in the agency regulations. Train and educate Investigators (and Regional Managers) to invoke mediation steps early on in the process. Institute the use of an inquiry form for investigators to use with Complainants to determine "what the Complainant wants" and then encourage communication of those issues to Respondents early on to try and effectuate early resolution of cases. Simply including a form with checkboxes in the packet of materials that goes to the Respondent is not sufficient in making resolution a priority.
- Institute more training for investigators in all aspects of the investigative process, including mediation skills, interviewing and investigation skills, legal updates, etc. The Commission Counsel should take responsibility for this area and identify and implement training on a regular basis for staff in investigatory roles.
- Create more user-friendly procedures for filing charges of discrimination. Establish an Information Officer whose primary duties will be to update the agency's web presence and to publish updated and current forms and materials via the internet.
- In light of the delay with intake procedures, the Human Rights Referees should be assigned to do complaint intake via phone or in person, in the rotation with other investigators at the agency, so that intake officers are available every day for appointments and assistance - including walk-in assistance.
- Findings of the internal investigation conducted by agency Affirmative Action staff shall be required as part of the Office of Civil Rights investigation. Consideration should be made to bring consistency between timelines for the

Office of Civil Rights complaints and the agency internal complaint procedures.

- Areas of conflict within the complaint process shall be addressed. A distinction shall be made between Human Resource professionals and agency Attorney General Designees. Human Resource professionals shall not serve as Designees as it presents a conflict of interest for Human Resources to investigate discrimination complaints regarding personnel and labor matters. Additionally, legislation should be introduced that allows for all discrimination complaints to be handled by the Department of Administrative Service's Smart Unit when filed in small agencies where the duties of Human Resources and Affirmative Action are handled by the same person.

IV. Agency Affirmative Action Plans

- The Office of Civil Rights should broaden the focus of affirmative action and diversity within all state agencies. Regulations review should occur. In the future an agency affirmative action plan should look beyond only the narrow issue of employment by race, color and sex. It should encompass a more comprehensive view of diversity within an agency. It shall look at not only the recruitment of protected class members, but the retention of them. It shall examine the initiatives the agency is undertaking to meet the needs of its employees and customers in a multicultural competent way, and look at how the agency is providing equal access of its services to members of all groups offered protected class status in the state of Connecticut. It should provide a far-reaching holistic approach to becoming an inclusive workplace, expanding beyond the unrealistic quest for parity.
- In order to mitigate the current adversarial relationship between the CHRO and state agencies, there should begin a conversation - to open a dialogue focused on developing relationships and promoting ongoing communication.
- The Office of Civil Rights regulations should be revised so that agencies with approved plans submit on a biennial basis. During the off year, each agency would submit a report outlining its numeric and programmatic goal achievement to the Office of Civil Rights for review and comment. Disapproved plans would be submitted, in their entirety, on an annual basis.
- Written guidelines which are consistent, measurable and quantifiable for the standard of review for agency affirmative action plans should be developed, published and distributed widely. The standard of review should be modified to include diversity initiatives, hiring and proactive programming in addition to numerical achievements.